

Appl. No. 10/737,235
Docket No. 9456
Amdt. dated October 26, 2007
Reply to Office Action mailed on July 26, 2007
Customer No. 27752

REMARKS

Claim Status

Claims 1 and 3-15 are pending in the present application. No additional claims fee is believed to be due.

Claims 1 and 15 are amended to state that each discrete region has a distinct linear orientation in said MD-CD plane to clarify the grammar of the last clause of each amended claim. Support for the amendment can be found, for example, on page 8, lines 24-31, page 12, lines 4-13, in Claims 1 and 15 as originally filed, and Figures 1, 3, 4, and 5.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 102 Over Provost et al.

Claims 1, 3-5, 8, 12, 14, and 15 were rejected under 35 U.S.C. § 102(e) over Provost and Shepard (US 2004/0157036), hereinafter referred to as Provost. Independent Claims 1 and 15, as amended, claim discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Claim 14 claims the first layer as being relatively hydrophobic compared to the second layer.

Claim 1 and Claims Dependent Thereon

The Applicants submit that Claim 1, as amended, is patentable over Provost under 35 U.S.C. § 102(e) because Provost, as cited in the Final Office Action, does not disclose every element of amended Claim 1 of the present application. The portions of Provost cited in the Final Office Action do not appear to disclose discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. The Office Action of February 6, 2007, page 6, lines 5-8 identifies vertically oriented fibers in Provost as having fibers having a distinct linear orientation. Fibers oriented in the vertical direction are out of plane with the MD-CD plane and cannot be considered to have a distinct linear orientation in the MD-CD plane and a longitudinal

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axis in the MD-CD plane. Therefore, the Applicants submit that the fibers identified in the Office Action as having a linear orientation do not have linear orientation in the MD-CD plane as claimed.

The Applicant further reasserts below arguments made in the response of May 7, 2007 asserting that Provost, as cited, does not disclose discrete regions having a linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. The needle punched web of Provost is comprised of a carrier film 14 and batt 10 of fibers 12. Provost, Paragraph [0093] and Figure 1. In Provost, the batt 10 of fibers 12 is needle punched through the carrier film 14. Figure 2D of Provost shows a final structure of the batt 10 of fibers 12 and the relationship of the fibers 12 to the carrier film 14. As shown in Fig. 2D of Provost, the fibers 12 form loops protruding through the carrier film 14. Paragraph [0099] of Provost describes the loops as being "a plurality of individual loops 40 extending from a common trunk 42 trapped in film hole 38." Paragraph [0007] of Provost describes the forked needle 34 that creates the hole as having a diameter of 35 gauge or smaller. Thus, the needle 34 has a circular cross section orthogonal to the length of the needle above the forked portion of the needle. Other needle diameters are disclosed in Paragraphs [0038] and [0039] of Provost.

As shown in Fig. 2C of Provost, at one stage in formation of the looped web, the needle penetrates the carrier film 14 such that the entire forked portion of the needle is driven through the carrier film 14. Provost, Paragraph [0097], describes the carrier film 14 as having a thickness of about 0.05 mm. Provost, Paragraph [0099] describes the needle as having a total penetration depth "DP" between 2 and 5 mm. Cross sections shown in Figs. 2C and 2D of Provost show that the hole in the carrier film 14 bounds the entire circumference of the needle 34 as the needle is punched through the film carrier. Since the needle 34 has a circular cross section, the hole 38 in the film carrier should also be circular. Thus, each trunk 42 should have a circular cross section as the web material comprising the trunk 42 protrudes through a circular hole 38 (as measured in a plane parallel to the plane of the unaltered web).

The discrete regions (or loops 40) in Provost do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. As discussed above, each trunk 42 has a circular cross section because the web material comprising the trunk protrudes through a circular hole 38. Figures 2D, 3D, 4, 7, 8, and 11

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of Provost illustrate the structure of the web in profile. The loops 40 of Provost do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Rather, the loops 40 appear to look like trees or bushes extending from the trunk 42 and are symmetric in the MD-CD plane of the structure in Provost. As shown in Figure 11 of Provost, each set of loops 40 extending from each trunk 42 is spaced apart from the other. Paragraph [0105] of Provost states that "[p]referably there is sufficient distance between adjacent structures so as to enable good penetration of the field of formations by a field of mating male fastener elements." As shown in Figs. 7 and 11 of Provost, each trunk 42 and corresponding loops 40 are spaced apart from other trunks 42 and loops 40. Therefore, loops 40 do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane, as claimed in the present application.

The Office Action further states, in regard to Provost, that circular tufts have a distinct length in the longitudinal direction. The tufts in Provost, when viewed from above, would be circular tufts. Circular tufts do not have a distinct linear orientation and a longitudinal axis in the MD-CD plane, as in Claim 1 of the present application. A circle does not have a distinct linear orientation because all points about the circumference of a circle are equidistant from the center of the circle. There is nothing distinct about any individual points in which all of the points are an equal distance from a single center point. A circle, when viewed from above, has no distinct orientation in any in-plane direction because a circle is symmetric. It is impossible to properly describe a circle as having a distinct linear orientation in the plane of the circle. There is nothing remotely linear about a circle. A circle is round. A circular tuft, as shown in Provost et al., does not anticipate Claim 1 because a circle does not have a distinct linear orientation and a longitudinal axis in the plane of the circle.

Furthermore, in the Response to Arguments section, page 7, lines 13-22, the Office Action states that the linear orientation and a longitudinal axis in the MD-CD plane is provided by multiple tufts in rows in Provost. In Claim 1, each discrete region has a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. That is, the linear orientation in the MD-CD plane is provided by the discrete region itself, not a plurality of discrete regions as maintained in the Office Action. Thus, Provost, does not teach a discrete region having a linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

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Based on the above, the Applicants submit that Claim 1, as amended, is allowable over Provost. The Applicants respectfully request that the rejection of Claim 1 under 35 U.S.C. § 102(e) over Provost be withdrawn.

Because Claims 3-5, 8, and 12 depend upon Claim 1, the Applicants submit that Claims 3-5, 8, and 12 are also allowable over Provost. The Applicants respectfully request that the rejections of Claims 3-5, 8, and 12 under 35 U.S.C. § 102(e) over Provost be withdrawn.

Claim 14

The Applicants submit that Claim 14 is patentable over Provost under 35 U.S.C. § 102(e) because Provost, as cited in the Final Office Action, does not disclose every element of Claim 14 of the present application.

Provost, as cited in the Final Office Action, does not appear to disclose the first layer as being relatively hydrophobic compared to the second layer, as in Claim 14.

Furthermore, Provost discloses a looped fastener product. The looped fastener product of Provost is not a topsheet for a disposable absorbent article as claimed in Claim 14 of the present application.

Finally, as discussed in the previous response dated May 7, 2007, with respect to Claim 1, Provost, as cited in the Final Office Action, does not appear to disclose discrete regions having a distinct linear orientation and a longitudinal axis in the MD-CD plane.

For these reasons, the Applicants submit that Claim 14 is allowable over Provost. The Applicants respectfully request that the rejection of Claim 14 be withdrawn.

Claim 15

The Applicants submit that Claim 15 is patentable, over Provost, under 35 U.S.C. § 102(e), because Provost, as cited in the Final Office Action, does not disclose every element of Claim 15 of the present application.

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First, as discussed above, with respect to Claim 1, Provost, as cited in the Final Office Action, does not appear to disclose discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

Second, Provost discloses a looped fastener product. The looped fastener product of Provost is not an absorbent core for a disposable absorbent article, as claimed in Claim 15 of the present application.

For these reasons, the Applicants submit that Claim 15 is allowable over Provost. The Applicants respectfully request that the rejection of Claim 15 be withdrawn.

Rejections Under 35 U.S.C. § 102(b) Over Sorimachi et al.

Claims 1, 3, 6-10, and 12-15 were rejected under 35 U.S.C. § 102(b) over Sorimachi et al. (US 5,508,080). Independent Claims 1 and 15 claim discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Claim 14 claims the first layer as being relatively hydrophobic compared to the second layer.

Claim 1 and Claims Dependent Thereon

The Applicants submit that Claim 1, as amended, is patentable over Sorimachi et al. under 35 U.S.C. § 102(e) because Sorimachi et al., as cited in the Final Office Action, does not disclose every element of amended Claim 1 of the present application. The portions of Sorimachi et al. cited in the Final Office Action do not appear to disclose discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. The Office Action of February 6, 2007, page 6, lines 5-8 identifies vertically oriented fibers in Sorimachi et al. as fibers having a distinct linear orientation. Fibers oriented in the vertical direction are out of plane with the MD-CD plane and cannot be considered to have a distinct linear orientation and longitudinal axis in the MD-CD plane. The Applicants submit that the fibers identified in the Office Action as having a linear orientation do not have linear orientation in the MD-CD plane as claimed.

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The Applicant further reasserts below arguments made in the response of May 7, 2007 asserting that Sorimachi et al., as cited, does not disclose discrete regions having a longitudinal axis in the MD-CD plane.

Claim 1 was rejected under 35 U.S.C. § 102(b) over Sorimachi et al. (US 5,508,080). The Applicants submit that Claim 1 is patentable over Sorimachi et al., as cited in the Final Office Action, under 35 U.S.C. § 102(b), because Sorimachi et al. does not disclose every element of Claim 1 of the present application. The portions of Sorimachi et al. cited in the Final Office Action do not appear to disclose a composite web having discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

The discrete regions (protrusions 22a) in Sorimachi et al. do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Sorimachi et al., Column 4, Lines 32-37, states that needles used to create the structure have a diameter. Therefore, the needles in Sorimachi et al. have a circular cross section orthogonal to the length of the needle. As shown in Fig. 3 and described at Column 5, Lines 58-60, of Sorimachi et al., "part of the fibrous web 22 penetrates through the nonwoven fabric sheet 23 and forms protrusions 22a thereon." Since the needles in Sorimachi et al. are circular, the protrusions 22a should have a circular cross section when viewed from the side of the structure presenting the nonwoven fabric sheet 23 to the observer. Figures 3, 4, 6, 7, 8A, and 9A-C illustrate the structure of Sorimachi et al. in profile. The protrusions 22a of Sorimachi et al. do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Rather, each protrusion 22a appears to look like a bump with each bump being symmetric in the MD-CD plane. The cross section illustrated in Fig. 3 (and other figures in Sorimachi et al.) show that each protrusion 22a has the same cross section and the protrusions are spaced apart from one another. Therefore, protrusions 22a in Sorimachi et al. do not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

As discussed above, in regard to Provost and the Office Action's Response to Arguments section, the Applicants submit that a circular protrusion does not have a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane. Therefore, the Applicants submit that Sorimachi et al. also does not teach a

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discrete region having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

For the reasons set forth above, the Applicants submit that Claim 1, as amended, is allowable over Sorimachi et al. The Applicants respectfully request that the rejection of Claim 1 under 35 U.S.C. § 102(b) be withdrawn. Because Claims 3, 6-10, 12, and 13 depend upon Claim 1, the Applicants submit that Claims 3, 6-10, 12, and 13 are also allowable over Sorimachi et al. The Applicants respectfully request that the rejections of Claims 3, 6-10, 12, and 13, under 35 U.S.C. § 102(b), be withdrawn.

Claim 14

The Applicants submit that Claim 14 is patentable over Sorimachi et al., as cited in the Final Office Action, under 35 U.S.C. § 102(b), because Sorimachi et al. does not disclose every element of Claim 14 of the present application.

First, Sorimachi et al., as cited in the Final Office Action, does not appear to disclose the first layer as being relatively hydrophobic compared to the second layer.

Second, as discussed in the previous response dated May 7, 2007, with respect to Claim 1 and Sorimachi et al., the portions of Sorimachi et al. cited in the Final Office Action do not appear to disclose a composite web having discrete regions having a distinct linear orientation and a longitudinal axis in the MD-CD plane.

Third, Claim 14 claims a topsheet for a disposable absorbent article. Sorimachi et al. discloses a flexible laminated surface material for vehicle interiors and building interiors. The flexible laminated surface material for vehicle interiors and building interiors in Sorimachi et al. is not a topsheet for a disposable absorbent article.

For these reasons, the Applicants submit that Claim 14 is allowable over Sorimachi et al. The Applicants respectfully request that the rejection of Claim 14 be withdrawn.

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Claim 15

The Applicants submit that Claim 15, as amended, is patentable, over Sorimachi et al., under 35 U.S.C. § 102(b), because Sorimachi et al., as cited in the Final Office Action, does not disclose every element of Claim 15 of the present application.

First, as discussed above, with respect to Claim 1 and Sorimachi et al., Sorimachi et al., as cited in the Final Office Action, does not appear to disclose discrete regions having a distinct linear orientation in the MD-CD plane and a longitudinal axis in the MD-CD plane.

Second, Claim 15 claims an absorbent core for a disposable absorbent article. Sorimachi et al. discloses a flexible laminated surface material for vehicle interiors and building interiors. The flexible laminated surface material for vehicle interiors and building interiors in Sorimachi et al. is not an absorbent core for a disposable absorbent article.

For these reasons, the Applicants submit that Claim 15 is allowable over Sorimachi et al. The Applicants respectfully request that the rejection of Claim 15 be withdrawn.

Rejection Under 35 U.S.C. § 103(a) Over Sorimachi et al. (U.S. Patent No. 5,508,080) in
View of Kotek et al. (U.S. Patent No. 6,120,718)

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sorimachi et al. (US 5,508,080) in view of Kotek et al. (US 6,120,718). Claim 11 depends upon Claim 1. As discussed above, the Applicants submit that Claim 1 is allowable. Therefore, Claim 11 is also allowable. The Applicants respectfully request that the rejection of Claim 11, under 35 U.S.C. § 103(a), be withdrawn.

Rejection Under 35 U.S.C. § 103(a) Over Hansson (U.S. Patent No. 6,048,600)

Claims 1, 3-11, and 13-15 were rejected under 35 U.S.C. § 103(a) over Hansson. The Applicants respectfully traverse the rejection. Under the major heading relating to rejections under 35 U.S.C. § 103(a), the Office Action indicates that the rejection is under 35 U.S.C. § 102(b). In a phone call on May 4, 2007, the Examiner indicated that the

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rejection was intended to be under 35 U.S.C. § 103(a). The same error in form was repeated in the Office Action dated July 26, 2007.

The Applicants submit that the Office Action fails to establish a *prima facie* case of obviousness against Claims 1, 14, and 15, for two reasons. First, the Office Action fails to identify teaching or suggestion in Hansson of a plurality of fibers having portions reoriented in a direction substantially orthogonal to the MD-CD plane and extending toward the garment facing side of the second layer. In Hansson, the crests 3 extend away from the second layer 5. The Office action states that in Hannson "the composite material includes a structure, which when flipped over, would turn the valley (sic) into the crests, comprising fibers which are oriented substantially orthogonal to the MD-CD direction of the fabric." The Office Action does not identify any teaching, suggestion, or motivation to one skilled in the art to "flip" over first layer of Hannson. The Applicants submit that flipping over the first layer of Hannson results in an entirely different structure from that disclosed in Hannson. Even if there is teaching, suggestion, or motivation to flip over the first layer, the Office Action does not identify each and every element of the independent claims of the application of the modified structure.

Second, the text of the Office Action fails to identify any teaching or suggestion in Hansson of the first and second layer being disposed in a face to face relationship to form a laminate. In Hansson, the first layer 2 is rippled relative to the second layer 5.

Even if a *prima facie* case of obviousness against Claims 1, 14, and 15 is properly established, Hannson, as cited, teaches away from flipping over the first layer in the manner proposed in the Office Action. Hannson, column 1, line 62 to column 2, line 10, states that the openings should be in the wave crests, i.e. the part away from the second layer, to provide for improved rewetting properties, minimize surface contact with the wearer's skin, provide for air-flow over the extent of the sheet, and provide for a dry feeling. One skilled in the art would be going against the explicit teaching of Hannson by flipping over the first layer. Furthermore, Hannson, column 4, lines 10-12, states that the web disclosed therein provides "good security against leakage due to liquid running from the article, since liquid can not (sic) readily flow past the wave troughs." If Hannson is modified by flipping over the first layer, the openings in the first layer would provide for fluid communication across the wave troughs, which Hannson specifically teaches as being undesirable.

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In regard to Claim 14, the Applicant further submits that the Office Action fails to establish a *prima facie* case of obviousness against Claim 14 for an additional reason. The Office Action fails to identify teaching or suggestion in Hansson that the first layer is relatively hydrophobic compared to the second layer, as in Claim 14 of the present application. The Office Action states that Hansson teaches a hydrophobic first layer but does not identify any teaching or suggestion in regard to the nature of the second layer relative to the first layer.

In regard to Claim 15, the Applicant further submits that the Office Action fails to establish a *prima facie* case of obviousness against Claim 15 for an additional reason. Claim 15 is to an absorbent core. Hansson, is a casing sheet for an absorbent article. Therefore, Hansson does not teach or suggest an absorbent core, as in Claim 15 of the present application.

Claims 3-11 and 13 depend upon Claim 1. Therefore, the Applicants submit that Claims 3-11 and 13 are also allowable. The Applicants respectfully request that the rejections over Hansson be withdrawn.

Double Patenting Rejections

As stated in the Reply After 1st Office Action filed December 22, 2005, Applicants agree to submit all necessary terminal disclaimers upon indication of allowable subject matter.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

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Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Signature

Gary J. Foose, Ph.D., P.E.

Typed or Printed Name

Registration No. 58,896

(513) 634-3293

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